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November 11, 2024

Via ECF

The Honorable Vernon S. Broderick
U.S. District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 518
New York, NY 10007

Re: *Jones Lang LaSalle Brokerage, Inc. v. Nityo Infotech Corp.*, 1:23-cv-10738-VSB
Letter motion to permit taking of single deposition beyond discovery deadline

Dear Judge Broderick:

We represent Plaintiff and Counterclaim Defendant Jones Lang LaSalle Brokerage, Inc. (“JLL”) in the above-referenced action. We write concerning the outstanding deposition of the founder and CEO of Defendant and Counterclaim Plaintiff Nityo Infotech Corporation (“Nityo”), Naveen Kumar, and to request certain relief as more specifically set forth herein. Counsel for Nityo has consented to the relief sought by JLL.

JLL initially noticed Mr. Kumar’s deposition to take place on October 10, 2024. Thereafter, at Nityo’s request, JLL consented to move the date of Mr. Kumar’s deposition from October 10, 2024 to November 7, 2024. Upon agreeing to accommodate this delay and working with Nityo to prepare a schedule for all depositions, with Nityo’s consent, JLL requested an extension of discovery to November 15, 2024 (see ECF Dkt. No. 23), which this Court granted on October 15, 2024 (ECF Dkt. No. 24).

On November 6, 2024, less than 24 hours before Mr. Kumar’s scheduled deposition, Nityo informed JLL that Mr. Kumar would be unavailable due to an unspecified emergency. Counsel for JLL conferred with counsel for Nityo on the afternoon of November 6, 2024, but counsel for Nityo were unable to provide any details concerning Mr. Kumar’s availability, and could not confirm whether Mr. Kumar would be made available prior to the November 15, 2024 deadline for conclusion of depositions. Following the November 6, 2024 discussion, Nityo produced to JLL a timeline document prepared at an unspecified earlier date that indicated Mr. Kumar’s November 7, 2024 deposition was “likely to be rescheduled.”

On November 7, 2024, Nityo informed JLL that Mr. Kumar would be “unavailable until after the 6th of December.” JLL followed up in writing on November 7, 2024 and again on November 8, 2024, requesting further information substantiating the nature of Mr. Kumar’s

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unavailability and requesting a date on which Mr. Kumar would be made available for deposition. Having received no response to its written requests, counsel for JLL again conferred (by Zoom) with counsel for Nityo on November 11, 2024 regarding Mr. Kumar's deposition. To date, Nityo has not provided an explanation for Mr. Kumar's unavailability beyond an unspecified emergency, nor has Nityo committed to any date on which Nityo will make Mr. Kumar available for deposition.

As Founder and CEO of Nityo, Mr. Kumar's testimony is necessary to JLL, particularly (but not exclusively) with respect to the counterclaim that Nityo has asserted against JLL. At this time, Nityo has taken all depositions that it has noticed and, apart from Mr. Kumar's testimony, discovery is largely complete. JLL has previously consented to multiple extensions of discovery deadlines and does not wish to further prolong discovery.

In light of the foregoing circumstances, JLL respectfully requests that this Court order the following relief to which counsel for Nityo has consented:

1. On or before November 15, 2024, Nityo shall provide at least three dates on which Mr. Kumar will be made available for deposition between December 2 and December 13, 2024.
2. JLL shall be permitted to take Mr. Kumar's deposition on one of the dates provided by Nityo, notwithstanding the November 15, 2024 deadline for close of discovery, and to follow up with requests for any documents whose existence is revealed during Mr. Kumar's deposition.
3. All discovery deadlines shall otherwise remain in effect as set forth in the Second Amended Case Management Plan and Scheduling Order (ECF Dkt. No. 24).
4. Because Mr. Kumar's deposition will take place after the November 15, 2024 close of discovery, JLL shall be provided 30 days from the date of deposition to make any motion for summary judgment. Nityo's deadline to make any dispositive motion shall not be extended.

We appreciate Your Honor's attention to this matter.

Respectfully,



Emilie B. Cooper

Cc: Counsel of Record, via ECF

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SO ORDERED:

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